



Kathleen R. Hartnett
T: +1 415 693 2071
khartnett@cooley.com

April 12, 2023

Molly C. Dwyer
Clerk of Court
U.S. Court of Appeals for the Ninth Circuit
95 Seventh Street
San Francisco, CA 94103

Re: *Lindsay Hecox and Jane Doe with her next friends Jean Doe and John Doe v. Bradley Little, et al., and Madison Kenyon and Mary Marshall, Nos. 20-35813, 20-35815*

Dear Ms. Dwyer:

Pursuant to Federal Rule of Appellate Procedure 28(j), Plaintiff-Appellee Lindsay Hecox respectfully submits the enclosed order of the United States Supreme Court, dated April 6, 2023, in *West Virginia, et al. v. B.P.J., by her next friend and mother, Heather Jackson*, No. 22A800, 598 U.S. ____ (2023) (attached hereto as Ex. A).

As Plaintiff informed the Court via a 28(j) letter filed February 28, 2023, following the district court's order in *B.P.J. v. West Virginia State Board of Education et al.* dissolving the preliminary injunction that had allowed B.P.J. to participate in middle school sports for the last year-and-a-half, the Fourth Circuit granted B.P.J.'s Motion for Stay Pending Appeal and enjoined dissolution of the preliminary injunction, allowing B.P.J. to continue to play on her school's girls' sports teams pending appeal. (See ECF No. 203-1.)

The *B.P.J.* Defendants-Appellees and Intervenors-Appellees then filed an emergency application with the Supreme Court seeking vacatur of the Fourth Circuit's interim order. See *West Virginia v. B.P.J.*, No. 22A800 (U.S. Mar. 9, 2023). On April 6, 2023, the Supreme Court denied the application, leaving the Fourth Circuit's interim order in place, with two Justices noting their dissent. See *West Virginia*, 589 U.S. ____ (2023) (attached).

Sincerely,

/s/ Kathleen R. Hartnett

Kathleen R. Hartnett